

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 21-164 (NEB/BRT)

UNITED STATES OF AMERICA, )  
                                  )  
Plaintiff,                    )  
                                  ) GOVERNMENT'S MOTION  
v.                             ) FOR DISCOVERY  
                                  )  
SAMSON DIAMONTE XAVIOR-SMITH, )  
                                  )  
Defendant.                    )

The United States of America, by and through its undersigned attorneys, hereby respectfully moves this Honorable Court for the following:

1. An Order requiring the defendant, pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure, to disclose and to permit inspection and copying of the following:
  - a. Documents and Tangible Objects. All books, papers, documents, photographs, tangible objects, or copies or portions thereof, that are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in her case-in-chief at trial or at any evidentiary motions hearing.
  - b. Reports of Examinations and Tests. All results and reports of physical or mental examinations and of scientific tests or experiments made in connection with the above-captioned matter, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce as evidence in her case-in-chief at trial or at any evidentiary motions hearing or which were prepared by a witness whom the defendant intends to call at trial or at hearing.

c. Expert Testimony. A written summary of testimony the defendant intends to use under Rules 702, 703 and 705 of the Federal Rules of Evidence as evidence at trial. In accord with the Rules, the summary must describe the opinions of the witnesses, the bases and reasons therefore, and the witnesses' qualifications.

2. An Order pursuant to Rule 12.1 of the Federal Rules of Criminal Procedure requiring the defendant, if she intends to rely upon the defense of alibi, to notify the government in writing and file a notice with the clerk no later than the date of the motions hearing. In accord with the Rule, the notice must state the specific place where the defendant claims to have been at the time of the alleged offense, and the name, address, and telephone number of each alibi witness on whom the defendant intends to rely.

3. An Order pursuant to Rule 12.2 of the Federal Rules of Criminal Procedure requiring the defendant, if she intends to rely upon the defense of insanity at the time of the alleged offense, or introduce expert testimony relating to a mental disease or defect or any other mental condition of the defendant bearing upon the issue of guilt, to notify the government in writing and file a notice with the clerk no later than the date of the motions hearing.

4. An Order pursuant to Rule 12.3 of the Federal Rules of Criminal Procedure requiring the defendant, if she intends to rely upon the defense of actual or believed exercise of public authority on behalf of a law enforcement agency or federal intelligence agency at the time of the alleged offense, to notify the government in writing and file a notice with the clerk no later than the date of the motions hearing. In accord with the Rule, the notice must contain the law enforcement agency or foreign intelligence agency

involved; the agency member on whose behalf the defendant claims to have acted, and the time during which the defendant claims to have acted with public authority.

5. An Order pursuant to Rule 26.2 of the Federal Rules of Criminal Procedure requiring the defendant to timely produce all statements in the defendant's possession or control of any witness that the defendant calls in connection with a suppression hearing, trial, or sentencing.

Dated: August 2, 2021

Respectfully submitted,

W. ANDERS FOLK  
Acting United States Attorney

/s/ Benjamin Bejar  
BY: BENJAMIN BEJAR  
Assistant United States Attorney  
Attorney ID No. 351131